

ARKANSAS SUPREME COURT

No. CR 06-492

NOT DESIGNATED FOR PUBLICATION

RANDY PANKEY
a/k/a Randy Panky
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered October 12, 2006

APPEAL FROM THE CIRCUIT COURT
OF MILLER COUNTY, CR 2004-361,
HON. JIM HUDSON, JUDGE

APPELLANT DECLARED INDIGENT;
COUNSEL APPOINTED

PER CURIAM

A jury found appellant Randy Pankey, who is also sometimes known as Randy Panky, guilty of sexual assault in the second degree, sentenced him to 240 months' imprisonment and imposed a fine of \$15,000. No notice of appeal was filed and appellant, proceeding *pro se*, sought and received permission to proceed with a belated appeal. *Pankey v. State*, CR 06-492 (Ark. June 22, 2006) (*per curiam*). Appellant had also sought appointment of counsel, and in our order granting the belated appeal, we remanded to the trial court for a determination as to whether appellant is indigent. The trial court has now returned its findings of facts on that issue.

The trial court found that: (1) appellant had \$200 in the inmate welfare fund and no other income; (2) appellant owns only a marital interest in some personal property that his spouse was unlikely to surrender; (3) appellant has no known indebtedness; (4) appellant claims his spouse as a dependant; (5) appellant is able-bodied and educated sufficiently to be employed, but because of

his incarceration is unable to obtain gainful employment. The trial court held on this basis that appellant is indigent and instructed the circuit clerk to prepare the transcript of the proceedings and deliver them to this court's clerk.

We accept the trial court's findings and appellant is permitted to proceed with this appeal *in forma pauperis*. We previously determined in our opinion granting the belated appeal that Mr. Michael A. Friedman, who was appellant's retained counsel at trial, has not been relieved as counsel and is currently attorney-of-record. Accordingly, we appoint Mr. Friedman as counsel to represent appellant in this appeal. As the circuit clerk has provided our clerk with the transcript and the complete record has now been lodged in this court, we instruct our clerk to set a briefing schedule so that the appeal may proceed.

Appellant declared indigent; counsel appointed.